

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 1, 1860.—Ordered to be printed.

Mr. FITZPATRICK made the following

REPORT.

[To accompany Bill S. 114.]

The Committee on Military Affairs and the Militia, to whom was referred the petition of R. F. Blocker, E. J. Gurley, and J. F. Davis, having had the same under consideration, report:

The petitioners claim compensation in the sum of \$5,000 for legal services in defending Captain Anderson, his officers and men, who were arrested and tried for an alleged violation of the laws of Texas in executing an order of their superior officer.

The circumstances of this case are these: On the 16th of April, 1854, Captain Richard H. Anderson, U. S. A., received written instructions from Brevet Brigadier General Harney to proceed to Fort Gibson with a detachment of four non-commissioned officers and twelve privates and arrest assistant surgeon Josephus M. Steiner, of the medical corps U. S. A., and convey him to Austin for trial by court-martial for mutiny and insubordination in killing Major R. A. Arnold, his superior officer. These written instructions stated "that H. P. Brewster, esq., a gentleman of legal learning, would accompany him, and give such advice as the exigencies of the mission might require." But sickness in Mr. Brewster's family so detained him that Captain Anderson went upon his mission without any legal adviser and arrested Dr. Steiner, while he was claimed by the sheriff of the county as his prisoner, under an indictment for the murder of Major Arnold. In returning to Austin with the prisoner in his custody, Captain Anderson yielded to the request of Dr. Steiner to pass Waco on his way, which is not on the most direct road from Fort Gibson to Austin; and while at Waco, Captain Anderson and his detachment were arrested by legal process under a charge of rescuing the prisoner (Dr. Steiner) from the custody of the sheriff of Hill county.

Captain Anderson was taken before a court of inquiry upon a charge the punishment of which was "hard labor in the penitentiary not less than five nor more than ten years."

Under these circumstances Captain Anderson employed the petitioners to defend him and his men, and advised his superior officer of what had been done. Captain Anderson was held to answer the charge; the

men were discharged. The petitioners also defended Captain Anderson in the district court of Hill county, and the trial resulted in his acquittal. The claim for these services is regarded as reasonable and fair by several practising attorneys, whose letter accompanies the petition.

Payment of this claim has been refused by the department because it was alleged that Captain Anderson in visiting Waco had exposed himself to the arrest, and had not obeyed his instruction to reach Austin by the most direct route. The decision of the Secretary of War was "that the case as presented did not warrant the employment of counsel by the United States."

Captain Anderson was afterwards tried and acquitted by a court-martial upon specifications and charges arising out of his conduct in connection with the arrest, &c., of Dr. Steiner.

The committee have carefully examined this case, and are satisfied that the claim as presented is much too large; yet they are of the opinion that as the petitioners were employed in good faith, and labored industriously in defense of their clients, they are entitled to a proper recompense for their services, and report a bill for their relief allowing them \$1,000 in full of their claim.